

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
OPENING STATEMENT:
NTSB HEARING ON FMVSS ENFORCEMENT FOR FOREIGN CARRIERS

Introduction

Good Morning Member Hersman, NTSB senior executives and technical staff. I appreciate the opportunity to discuss the Federal Motor Carrier Safety Administration's (FMCSA) role in commercial motor vehicle safety in general, and the Agency's responsibility for ensuring the safe operation of trucks and buses used to transport passengers and freight into the United States.

The FMCSA's mission is to promote safe commercial motor vehicle operations through education, regulation, enforcement, and innovative research and technology to reduce truck and bus crashes resulting in fewer fatalities and injuries on the Nation's highways. We work towards a safer and more secure transportation environment through shared responsibilities with our State partners and stakeholders.

FMCSA's authority to prescribe requirements for the safety of operation and equipment of motor carriers operating in interstate commerce can be found at 49 U.S.C. 31502(b). The agency's regulatory authority encompasses the safe operation of CMVs in interstate and foreign commerce, motor carriers conducting these operations, and CMV drivers. FMCSA's safety regulations, the Federal Motor Carrier Safety Regulations (FMCSRs), are codified in 49 CFR parts 325-399.

Within the Department of Transportation, FMCSA coordinates its truck and bus safety efforts with:

- The Federal Highway Administration (FHWA) – which focuses on the Nation's highway infrastructure, including size and weight issues for CMVs;
- The National Highway Traffic Safety Administration (NHTSA) – which develops vehicle manufacturing standards and safety initiatives such as programs to deter drinking and driving and to increase safety belt usage by drivers; and,
- The Pipeline and Hazardous Materials Safety Administration (PHMSA) – which develops the hazardous materials regulations applicable to the motor carrier industry.

The FMCSA has approximately 1,100 employees. Approximately 280 employees are in Headquarters and the remaining staff are assigned to field offices throughout the United States.

General Applicability of FMCSA's Safety Regulations

Generally, the FMCSRs apply to the operation of trucks and buses in interstate commerce, including the operation of such vehicles by foreign motor carriers transporting passengers and freight into the United States. The Agency's regulations concerning commercial driver's licenses (CDL) and controlled substances and alcohol testing apply to drivers operating heavy trucks and buses in interstate and intrastate commerce.

All motor carriers operating in the U.S. (including Canada- and Mexico-based carriers) are required to comply with all applicable Federal and State motor carrier safety regulations concerning the operation of trucks and buses. If upon inspection by Federal or State motor carrier safety enforcement personnel it is determined that a vehicle does not comply with the FMCSRs or a serious safety violation that would be likely to cause a crash or breakdown is detected, the vehicle will be placed out of service, and not allowed to proceed on the highway until that problem is corrected. The roadside inspection procedure is the same for all CMVs operated in the U.S., regardless of the motor carrier's country of domicile; however, due to statutory requirements, we only perform bus roadside inspections at border crossings and destination stops unless a serious safety defect is observed.

Relationship Between the FMCSRs and the FMVSSs

FMCSA and its State partners enforce the FMCSRs which incorporate by reference those provisions of the FMVSSs most closely related to the safe operation of commercial motor vehicles. For example, the FMCSRs cross reference FMVSSs concerning air brake systems, hydraulic brake systems, lamps and reflectors, rear impact guards on trailers, and emergency exits on buses. Violations of the FMCSRs, including those that cross reference the FMVSSs, are cited during roadside inspections.

The references to the FMVSSs in the FMCSRs is intended to ensure that motor carriers maintain the safety performance features and equipment that NHTSA requires vehicle manufacturers to install if the vehicle is manufactured for sale and subsequent use in the United States. There is currently no requirement, under the FMCSRs, for an FMVSS certification label to be displayed on trucks and buses. However, FMCSA evaluates the current operational safety status of a vehicle through its inspection criteria, as an alternative to relying on a certification label affixed to the vehicle at the time of its manufacture.

FMCSA and NHTSA Rulemakings Concerning FMVSS Certification Labels

On March 19, 2002, FMCSA and NHTSA published four notices requesting public comments on proposed regulations and policies directed at enforcement of the statutory prohibition on the importation of commercial motor vehicles that do not comply with the applicable FMVSSs.

After a review and analysis of the public comments submitted to the 2002 notices, FMCSA and NHTSA withdrew their respective rulemakings concerning FMVSS certification labels in August 2005. The FMCSA determined it could effectively ensure motor carriers' compliance with applicable FMVSSs through continued vigorous enforcement of the FMCSRs, coupled with enforcement guidance regarding Mexico-domiciled carriers and vehicles. We again emphasize all motor carriers operating in the United States must comply with all applicable Federal and State motor carrier safety laws and regulations, including all of the FMCSRs that cross-reference particular FMVSSs. Through our cross-references to FMVSSs, we require motor carriers to ensure their CMVs are equipped with specific safety devices and systems required by NHTSA on newly manufactured vehicles, and to maintain their vehicles to ensure continued safe

performance. The roadside inspection program has ensured this is the case to the greatest extent practicable.

Although FMCSA withdrew its NPRM, the Agency continues to emphasize its commitment to uphold the operational safety of commercial motor vehicles on the Nation's highways – including that of Mexico-domiciled CMVs operating beyond the U.S.-Mexico border commercial zones – through continued vigorous enforcement of the FMCSRs.

Mexico-based and Canada-based motor carriers with current authority to operate in the U.S. have long been required to comply with all applicable FMCSRs. Therefore, FMCSA's withdrawal of its March 19, 2002, NPRM did not represent a change in the Federal safety rules, neither the FMCSRs nor the FMVSSs. The decision to forgo an FMVSS certification label requirement for vehicles in operation did not in any way weaken the strict Federal manufacturing standards applicable to vehicle manufacturers, or the Federal and State motor carrier safety rules applicable to truck and bus companies. The withdrawal of the NPRM simply represents a different approach for ensuring CMV safety.

Conclusion

The Department of Transportation is committed to ensuring the safe operation of trucks and buses on the Nation's highways. The FMCSA and NHTSA considered the safety benefits of requiring that all commercial vehicles operated in the U.S. display an FMVSS certification label and determined that there are other alternatives for ensuring highway safety, such as the vigorous enforcement of the FMCSRs.

Thank you for the opportunity to appear before you today. We are committed to working with the NTSB to ensure a safe transportation system for the Nation.